

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

LARRY BARTON,)
)
Plaintiff,)
)
v.) **Civil Action No. CV 10-S-3176-E**
)
ALABAMA HERITAGE)
COMMUNICATIONS, LLC,)
)
Defendant.)

MEMORANDUM OPINION

Plaintiff Larry Barton (“Barton”) initiated this civil action in the court of Alabama alleging that defendant Alabama Heritage Communications, LLC (“AHC”) and various other fictitiously identified defendants are liable pursuant to 42 U.S.C. § 1983 and Alabama state law based on AHC’s termination of Barton’s show on its television station. (*See Doc.^{1/} 1 at 6-9 (“Complaint” or “Compl.”)). On March 9, 2011, the magistrate judge entered a Report and Recommendation (doc. 18) recommending that AHC’s motion to dismiss pursuant to Rule 12(b)(6), Fed. R. Civ. P., (doc. 4) be GRANTED IN PART, as it relates to the First Amendment Claim, or, alternatively, that AHC’s motion for summary judgment (doc. 4) be GRANTED IN PART, also as to the First Amendment claim, and Barton’s First Amendment claim*

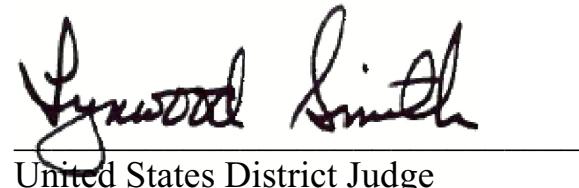
^{1/} All citations herein to “Doc(s). ____” are to the document numbers assigned by the clerk of the court in compiling the case file.

be DISMISSED with prejudice. The magistrate judge further recommended that AHC's dispositive motion be otherwise DENIED without prejudice, and the remaining state-law claims be REMANDED to the Circuit Court of Calhoun County, Alabama.

The parties were referred to the provisions of 72(a), *Federal Rules of Civil Procedure*. There have been no objections filed to the magistrate judge findings.

The Court is of the opinion that the magistrate judge's findings are due to be, and hereby are, ADOPTED, and his recommendations are ACCEPTED. Accordingly, AHC's motion to dismiss pursuant to Rule 12(b)(6), Fed. R. Civ. P., (Doc. 4) is due to be GRANTED IN PART, as it relates to the First Amendment Claim. Alternatively, AHC's motion for summary judgment (Doc. 4) is due to be GRANTED IN PART, also as to the First Amendment claim. As a result, Barton's First Amendment Claim is due to be DISMISSED with prejudice. AHC's dispositive motion is otherwise due to be otherwise DENIED without prejudice, and the remaining state-law claims are due to be REMANDED to the Circuit Court of Calhoun County, Alabama. A final order will be entered.

DONE and ORDERED this 31st day of March, 2011.



United States District Judge